IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 276 (S/S) of 2007

Pankaj Gairola, Aged about 40 years, S/o Late Sri R.D. Gairola
R/o E-417 Rajender Nagar, Roorkee,
District- Haridwar ------- Petitioner

Versus

1. State of Uttarakhand through Principal Secretary Home, Dehradun
2. The Director General of Police, Police Head Quarter, Dehradun, Uttaranchal
3. Additional Director General of Police, Karmik Police Head Quarter, Dehradun Uttaranchal
4. State of U.P. through Principal Secretary Home, Civil Secretariat, Lucknow

------ Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Paresh Tripathi, learned counsel for the petitioner, and Sri N.P. Sah, learned Standing Counsel State of Uttarakhand for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

1. To issue a writ, order or direction in the nature of mandamus commanding the respondents to repatriate the petitioner from Intelligence Department to Civil Police (District Executive Police) or alternatively
2. To issue a writ, order or direction in the nature of mandamus commanding the respondents to ensure the compliance of the judgment dated 26.02.2003 passed by the Public Service Tribunal in Claim Petition No. 1475/ 2000 "Pankaj Gairola V/s State of U.P. & 7 Ors".

3. To issue a writ, order or direction in the nature of certiorari quashing the order dated 01.10.2005 passed by the respondent no. 2 contained as Annexure No. 15 to the writ petition, after summoning the original of the same from the respondents.
4. To issue any such other writ, order or direction, which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.
5. To award the cost of the petition.

The stand of the petitioner is that in the year 1992, the petitioner was transferred from Regular Police to Intelligence Wing, but the petitioner has not been sent back to the Regular Police till now.

Learned counsel for the petitioner has submitted that in spite of repeated representations, no heed has been paid by the respondents for sending back the petitioner to the Regular Police. A number of similarly situated police personnel file Claim Petition before the Tribunal and the Tribunal took note of the situation and issue directions to the Director General of Police to issue Circulars by regulating the tenure of the Police Personal of Civil Police to their posting in Intelligence Wing and the criteria must be spelt out clearly. Learned counsel for the petitioner has further submitted that in pursuance to the aforesaid directions, the Director General of Police initiated and circulated a Policy regarding transfer from Civil Police to Intelligence and its tenure. In the transfer order, it was provided that after a period of 5 years, the Police Personnel transferred from Civil Police to Intelligence department be sent back to the Civil Police. Despite the said Policy having been adopted and a number of persons have been transferred back to

their Civil Police department, the petitioner was not provided the benefit of the same and aggrieved by this, the petitioner filed Claim Petition No. 1475 of 2000, which was allowed by the Tribunal.

Learned counsel for the petitioner has further submitted that according to the respondents, against the order passed by the Tribunal in the Claim petition, a writ petition was filed before the Hon'ble Allahabad High Court and the Hon'ble High Court has stayed the operation of the order passed by the Claims Tribunal, however, there is no order in existence against the order passed by Claims Tribunal in case of the petitioner.

Considering the facts and circumstances of the case, I deem it fit and proper and it is in the interest of justice that in case there is no order of Hon'ble Allahabad High Court against the order of Public Service Tribunal passed in the claim petition of the petitioner, the respondents are directed to consider the case of the petitioner for sending him back in Regular Police in accordance with law within a period of two months from the date of production of a certified copy of this order.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

13.12.2007
VKS